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MF NUT CO., LLC, fka

MAC FARMS OF HAWAII, LLC

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MF NUT CO., LLC, fka MAC FARMS
OF HAWAII, LLC,

Plaintiff,

vs.

CONTINENTAL CASUALTY
COMPANY,

Defendant.

Civil No. CV11-00004 KSC
(Declaratory Judgment)

PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AS TO DUTY TO DEFEND;
MEMORANDUM IN SUPPORT OF
MOTION; CERTIFICATE OF
SERVICE

Trial Date: February 12, 2013

**PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT AS TO DUTY TO DEFEND**

Plaintiff MF NUT CO., LLC, fka MAC FARMS OF HAWAII, LLC ("Mac Farms") hereby moves this honorable Court for partial summary judgment as to Defendant Continental Casualty Company's duty to defend Mac Farms in an underlying employment action brought by the Equal Employment Opportunity Commission. This motion is based on the ground that the factual allegations in the Underlying Lawsuit raise the possibility that Defendant will be liable to indemnify Plaintiff for at least some of the underlying claims. Such possibility obligates Defendants, as a matter of law, to defend Mac Farms for all the claims asserted in the underlying lawsuit.

This motion is brought pursuant to Rule 56 of the Federal Rules of Civil Procedure and is supported by the Memorandum in Support of Motion attached hereto, the Separate Concise Statement of Facts filed herewith, the declarations and exhibits attached thereto, the arguments of counsel and such other matters as the Court may consider.

DATED: Honolulu, Hawaii, May 30, 2012.

/s/David R. Harada-Stone
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Attorneys for Plaintiff
MF NUT CO., LLC, fka MAC FARMS OF
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